

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawai'i 96813

November 19, 2009

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

Board Members:

SUBJECT: Authorization to Legacy Land Conservation Program Grantee to Amend Approved Project to Include Donation of Conservation Easement to the County of Maui

SUMMARY:

On May 9, 2008, the Board approved a Legacy Land Conservation Program grant of \$767,976 to Ke 'Aupuni Lokahi (KAL) and Moloka'i Land Trust (MLT) for the acquisition of 196.4 acres in Kawaikapu, Mana'e, Island of Moloka'i, ("Subject Property") to be held by MLT (Attachment 1). On May 27, 2008, the Governor authorized the release of funds for this grant (Attachment 2). The total estimated project cost for this project as stated by MLT and KAL in the 2008 grant application is \$1,288,500 (Attachment 3). MLT and KAL intend to use matching funds from Maui County in the amount of \$480,000 for the purchase of the Subject Property. The County of Maui is requiring an easement as a condition on its grant funding toward this project. In a November 2, 2009, letter to the Division of Forestry & Wildlife, MLT requested to amend its project to allow for a donated conservation easement over the Subject Property to be held by the County of Maui.

BACKGROUND:

During the Fiscal Year 2008 Legacy Land Conservation Program, KAL and MLT requested and was awarded funding in the amount of \$767,976 for the purchase of a parcel of land, TMK (2) 5-7-005:021, mauka of Kamehameha V. Highway, Mile 17, bordering on the Kawaikapu/Kainalu stream, Mana'e, Island of Moloka'i, for the for the protection of watershed, cultural, and scenic values. The property ranges from sea level to 2,100 ft elevation and includes the Kawaikapu waterfall. KAL and MLT are purchasing the property from Gregory and Tracy Gordon, and MLT is the intended holder of the property. MLT intends to implement access and management plans and to create an inventory of cultural sites. The mission of the MLT is to protect and restore the land, natural and cultural resources of Moloka'i, and to perpetuate the unique Native Hawaiian traditions and character of the island for the benefit of the future generations of all Moloka'i, particularly Native Hawaiians.

DISCUSSION:

KAL and MLT are also seeking matching \$480,000 in acquisition funding for this project from the County of Maui. According to the November 2, 2009, request, the County of Maui is requiring that a

conservation easement be donated to the County of Maui as a condition of grant funding for the purchase of the Subject Property. According to MLT, the conservation easement will provide for the protection of the resource values that the Legacy Land grant was given to protect. Legacy Land Conservation Program deed restrictions will be placed on the conservation easement to ensure compliance with Chapter 173A, Hawaii Revised Statutes.

A Legacy Land Conservation Program grant agreement between the Board and KAL and MLT, dated June 30, 2008, outlines the terms of the award, but does not include the transfer of the conservation easement to the County of Maui. The grant agreement must be amended in order to reflect this change.

#### RECOMMENDATIONS:

1. That the Board approve the donation of a conservation easement to the County of Maui as part of the project which received Board approval for funding May 9, 2008, subject to:

- a. Placement of the following deed restrictions in the deed of conservation easement:

“The lands covered by this conservation easement have been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program (“LLCP”) through grant agreement number 58014, dated June 30, 2008, and is subject to all of the terms and conditions of the grant agreement. The conservation easement conveyed by this document shall vest in the County of Maui, subject to disposition instructions from the State of Hawaii, Department of Land and Natural Resources (“DLNR”), or its successor agencies. The property shall be managed consistently with the purposes for which the Grantor was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

The County of Maui, for itself, its successors and assigns, and in consideration of this conservation easement, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this conservation easement without the written approval of the DLNR or its successor agencies.

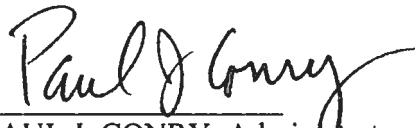
The County of Maui further covenants that if the conservation easement is sold, leased, rented, or otherwise disposed of by the County of Maui, that portion of the County’s net proceeds (sale price less actual expenses of sale) of such sale, rental, or proceeds equal to the proportion that the state grant bears to the Grantor’s original cost of the land shall be paid to the State of Hawaii;”

subject to any necessary revisions as approved by the Chairperson and the Department of the Attorney General;

- b. Review of the deed of conservation easement by the Department of the Attorney General; and
    - c. Execution of an amendment to the June 30, 2008, Legacy Land Conservation Program grant agreement between the Board and MLT and KAL.

2. That the Board authorize the Chairperson to execute an amendment to the June 30, 2008, Legacy Land Conservation Program grant agreement between the Board and MLT and KAL to include the donation of a conservation easement to the County of Maui.

Respectfully submitted,

  
PAUL J. CONRY, Administrator  
Division of Forestry and Wildlife

Attachments (3)

APPROVED FOR SUBMITTAL:

  
LAURA H. THIELEN, Chairperson  
Board of Land and Natural Resources

